

JUDGE KARAS
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 CV

4526

ORIGINAL

----- X
WAYNE D. HOSLER,

Civil Action No.:

Plaintiff,

-against-

ANATOLIY N. SULIMA and BOSTON
TRANSPORTATION INC.,

NOTICE OF REMOVAL

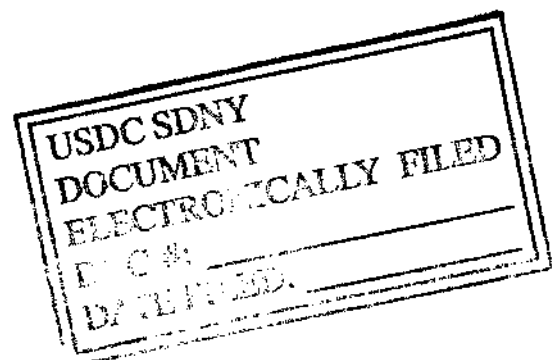
Defendants-Petitioners.
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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Defendants-Petitioners, ANATOLIY N. SULIMA and BOSTON TRANSPORTATION
INC. file this notice to remove the foregoing case to the United States District Court for the
Southern District of New York, New York division, and respectfully show this Court:

1. A civil action was commenced in the Supreme Court of the State of New York,
County of Orange in which the above-named individual, WAYNE D. HOSLER is the plaintiff
and the petitioners are the defendants. The action is entitled Wayen D. Hosler v. Anatoliy N.
Sulima and Boston Transportation Inc. and bears Index Number 03686/08.

2. This is a civil action seeking damages arising out of a motor vehicle accident
allegedly caused by the petitioners' negligence. The plaintiff alleges personal injuries. The
addendum demands an amount which exceeds the jurisdictional limits of all lower Courts.
Accordingly, the amount in controversy in this suit is in excess, exclusive of interest and costs,
of \$75,000.



3. This action involves a controversy between a citizen of the State of New York, a citizen of the State of Pennsylvania and a company incorporated in the state of Illinois in that: (a) the plaintiff Wayne D. Hosler is now, and was at the time said action was commenced, a resident and domiciliary of the State of New York residing Rd 2 Hosler Road, PO 174, Westtown, New York (b) petitioner Anatoliy N. Sulima was at the time of the accident and remains a citizen of the State of Pennsylvania residing at 367 Scotia Road, Port Matilda, PA 16870 and (c) defendant Boston Transportation Incorporated was at the time of this accident and remains an Illinois Company with its principal place of business at 7545 S. Madison Street, Burr Ridge, IL 60527.

4. The above action was commenced against defendants-petitioners on or after April 9, 2008.

5. No proceedings have occurred in the state court action, and the defendants have not yet appeared in that action.

6. Said action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is complete diversity of citizenship between the plaintiff Wayne D. Hosler and the defendants.

7. Defendants Anatoliy N. Sulima and Boston Transportation Inc. are the petitioners for the removal of this case to this Court.

8. Defendants have been served with the Summons and Complaint on or about April 28, 2008. Accordingly, this motion is timely.

9. Written filing of this motion will be given to the plaintiff promptly after the filing of this motion, as is required by law.

10. A true and correct copy of this motion will be filed with the Clerk of the Supreme Court of the State of New York, Orange County promptly after the filing of this motion, as is required by law.

11. Attached to this motion, and by reference made a part hereof, are true and correct copies of all process, pleadings and orders filed in the aforesaid action.

12. By filing this Notice of Removal, petitioners do not waive any defense which may be available to them, specifically including, but not limited to, their right to contest in personam jurisdiction over the petitioners, improper service of process upon the petitioners, and the absence of venue in this Court or in the court from which the action has been removed.

WHEREFORE, petitioners pray that this action proceed in this Court as an action properly removed thereto.

Dated: New York, New York
May 9, 2008

Yours etc.,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By:


JOHN A. HSU (JH-6425)

Attorneys for Defendants-Petitioners

ANATOLIY N. SULIMA and BOSTON
TRANSPORTATION INC.

3 Gannett Drive

White Plains, New York 10468

(914) 323-7000

01502.00026

To: Grogan & Souto, P.C.
Court Plaza, PO Box 330
Goshen, New York 10924
(845) 294-6155

GROGAN & SOUTO^{PC}

Trial Attorneys and Counselors-at-Law

CAROLINA
CASUALTY

April 28, 2008

2008-04-28 10:38

PAYNE FEWELL, CLAIMS SUPERVISOR
CAROLINA CASUALTY INSURANCE COMPANY
P.O. BOX 2575
JACKSONVILLE, FL 32203

Re: Husler v. Sulima & Boston Transportation
Your Claim No. 1174424

Dear Mr. Fewell:

SUMMONS KM

As your file may reflect, our office has been retained by Wayne D. Hosler to assist him in recovering money damages for personal injuries he sustained in a motor vehicle accident involving your insureds on August 6, 2007. The accident occurred on Interstate 84 in Orange County, New York, when your insured's tractor trailer struck Mr. Hosler's vehicle from behind.

Please find enclosed as a courtesy copy to you a copy of the Summons and Complaint filed in this matter. In compliance with New York State Vehicle and Traffic Law §253, a copy of this Summons and Complaint has been delivered to your insureds and has also been filed with the Office of the Secretary of State for the State of New York.

If in your judgment this is a matter that you feel can be resolved without us go forward with litigation, please call me to discuss an extension of time for your clients to answer in this case.

Very truly yours,

GROGAN & SOUTO, P.C.

By: 
EDWARD P. SOUTO

EPS/lg
Encl.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

Date of Filing: April 9, 2008

Index No. 2008/03686

Plaintiff designates

-----x Orange

WAYNE D. HOSLER,

County as the place of trial

Plaintiff,

-against-

SUMMONS

ANATOLIY N. SULEMA and BOSTON
TRANSPORTATION INC.,

Plaintiff's address

RD 2 Hosler Road, PO 174

Westtown, New York

Defendants.

-----x County of Orange

To the above named Defendant

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty(30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: Goshen, New York
April 7, 2008

GROGAN & SOUTO, P.C.

Attorneys for Plaintiff

Office and P.O. Address

Court Plaza, P.O. Box 330

Goshen, New York 10924

(845) 294-6155

Defendant's address:
ANATOLIY N. SULIMA
367 SCOTIA ROAD
PORT MATILDA, PA 16870

BOSTON TRANSPORTATION INC.
7545 S. MADISON STREET
BURR RIDGE, IL 60527

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

WAYNE D. HOSLER,

Plaintiff,

-against-

COMPLAINT

Index No. 2008/03686

ANATOLIY N. SULIMA and BOSTON
TRANSPORTATION INC.,

Defendant.

Plaintiff, WAYNE D. HOSLER, by his attorneys, GROGAN & SOUTO, P.C., as
and for his complaint against the defendant, alleges:

1. Plaintiff is a resident of Orange County, New York.
2. Defendant ANATOLIY N. SULIMA is a resident of the State of Pennsylvania.
3. Defendant BOSTON TRANSPORTATION INC., is an incorporated business
entity with its main office located in the State of Illinois.

4. On August 6, 2007, at approximately 12 noon, plaintiff was operating his 1982
Ford truck bearing New York State plate registration number 95835JU in a westbound
direction on Interstate 84 in the Town of Greenville, County of Orange, State of New York.

5. On the date and at the approximate time and location set forth above,
Defendant ANATOLIY N. SULIMA was operating a 2000 Freightliner tractor/truck bearing
Illinois plate number P596806.

6. The said 2000 Freightliner tractor/truck operated by Defendant ANATOLIY
N. SULIMA on the date and at the approximate time and location set forth above was owned
by Defendant BOSTON TRANSPORTATION INC.

7. The aforesaid 2000 Freightliner tractor/truck was leased by Defendant BOSTON TRANSPORTATION INC.

8. On the date and at the approximate time and location set forth above, Defendant ANATOLIY N. SULIMA was operating the said 2000 Freightliner tractor/truck with the express and/or implied permission and consent of Defendant BOSTON TRANSPORTATION INC.

CAUSE OF ACTION

9. On the date and at the approximate time and location set forth above, Defendant ANATOLIY N. SULIMA while operating the said 2000 Freightliner tractor/truck collided into the rear of the aforesaid motor vehicle operated by the plaintiff.

10. The aforesaid collision was the result of the negligence, carelessness and recklessness of Defendant ANATOLIY N. SULIMA in the operation of the motor vehicle he was driving at the time of the collision.

11. As a result of the aforesaid collision, plaintiff was caused to sustain severe and disabling injuries and was caused to sustain special damages in excess of that which is defined as "basic economic loss" in the New York State Insurance Law.

12. As a result of the aforesaid collision, plaintiff was caused to sustain a "serious injury" as such term is defined at New York State Insurance Law §5102(d).

13. The limited liability provisions of CPLR §1601 do not apply pursuant to one or more exceptions of the New York State Civil Practice Law and Rules.

14. By reason of the foregoing, plaintiff demands a money judgment as compensation for his damages which exceed the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demands judgment on the cause of action set forth above for a sum of money that exceeds the jurisdictional limits of all lower courts together with the costs and disbursements of this action.

Yours, etc.

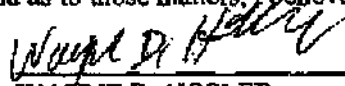
GROGAN & SOUTO, P.C.
Attorneys for Plaintiff
Office and P.O. Address
Court Plaza, P.O. Box 330
Goshen, New York 10924
(845) 294-6155

STATE OF NEW YORK:

SS:

COUNTY OF ORANGE :

WAYNE D. HOSLER, being duly sworn, says: I am the plaintiff in the action herein; I have read the annexed Complaint, know the contents thereof and the same are true to my knowledge, except those matters herein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.



WAYNE D. HOSLER

Sworn to before me this
8th day of April, 2008



Notary Public

LISA L. GOMEZ
Notary Public, State of New York
No. 03006164875
Qualified in Orange County
Commission Expires April 18, 2011

Index No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

WAYNE D. HOSLER,

Plaintiff,

-against-

ANATOLIY N. SULIMA and BOSTON TRANSPORTATION INC.,

Defendants.

SUMMONS and COMPLAINT

GROGAN & SOUTO, P.C.
Attorneys for Plaintiff
Court Plaza, PO Box 330
Goshen, NY 10924
(845) 294-6155

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

Dina Zanzano, being duly sworn, deposes and says: that deponent is not a party to this action, is over 18 years of age and resides in Westchester County;

That on the 14th day of May, 2008, deponent served the within document(s) entitled Notice of Removal upon:

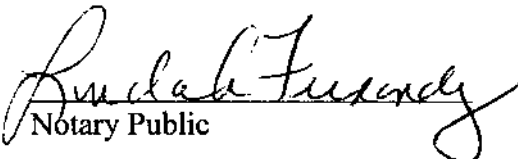
Grogan & Souto, PC
Court Plaza, PO Box 330
Goshen, New York 10924

at the address(es) designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



Dina Zanzano

Sworn to before me this
14th day of May, 2008


Notary Public

LINDA A. FERNANDEZ
Notary Public, State of New York
No. 01FE4954636
Qualified in Westchester County
Commission Expires August 14, 2009